STATE OF MICHIGAN

DEPARTMENT OF LABOR & ECONOMIC GROWTH

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioner **File No. 85748-001**

v

Blue Cross and Blue Shield of Michigan
Respondent
_____/

Issued and entered
This 12th day of May 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On March 24, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*. The Commissioner reviewed the request and accepted it on March 31, 2008.

The Commissioner notified Blue Cross and Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on April 11, 2008.

The issue in this external review can be decided by a contractual analysis. The contract here is the BCBSM Group Conversion Comprehensive Health Care Benefit Certificate (the certificate). The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II
FACTUAL BACKGROUND

On December 9, 2005, the Petitioner had a consultation and received infusion therapy and injections from XXXXX, MD, at the XXXXX clinic in Sheboygan, Wisconsin. The total charges in question are $3,390.00. BCBSM denied payment for these services.

The Petitioner appealed BCBSM's denial. Following a managerial-level conference on February 11, 2008, BCBSM maintained its denial and issued a final adverse determination dated February 22, 2008.

III
ISSUE

Is BCBSM required to pay for the care provided the Petitioner on December 9, 2005, by Dr. XXXXX?

IV
ANALYSIS

Petitioner's Argument

The Petitioner was referred by her gastroenterologist to Dr. XXXXX, a hematologist, for treatment of her iron deficiency. Since all the procedures done by the gastroenterologist were covered, the Petitioner says she had no reason to believe that her care by Dr. XXXXX would not be covered.

BCBSM indicated that had the Petitioner's care been provided in an outpatient department of a hospital it would have been covered. The bill from XXXXX describes the service as "office/outpatient consult." XXXXX indicated to the Petitioner that this is the only place that infusion therapy services are provided, that the hospital, fertility clinic, doctor's office, etc., are all under the same roof but each has a designated area. According to the Petitioner, all these facilities are part of one hospital but certain procedures are done in specific locations.

The Petitioner believes that her care on December 9, 2005, is a covered benefit under her certificate and BCBSM is required to pay for it. She believes that BCBSM may not be familiar with how these services were provided since they were done in Wisconsin.

BCBSM's Argument

BCBSM says that under the terms of the certificate there are no infusion (IV Treatment) benefits for services performed in an office setting -- coverage is available only when the services are received in a hospital, facility, or alternative to hospital care. The one exception for home infusion therapy, is limited to incurable or chronic conditions or to treat conditions that require acute care if it can be safely managed in the home. Except for chemotherapeutic drugs, home infusion therapy services are not covered separately elsewhere in the certificate.

In the Petitioner's case, her services (consultation, infusion therapy, and injections) were rendered in an office setting and therefore are not covered. As stated above, coverage is limited to services rendered in a hospital, facility, and alternatives to hospital care settings. Alternatives to hospital care include home health care, home infusion therapy services, and hospice care services. There simply are no provisions in the certificate to cover these services when rendered in a provider's office. Furthermore, BCBSM points out those injections are not listed as payable benefits. BCBSM contends that the Petitioner's services were denied appropriately.

Commissioner's Review

The certificate describes how benefits are paid. The section of the certificate entitled *Physician and Other Professional Provider Services That Are Not Payable,* has this exclusion (on page 3.16):

- Services billed as office visits

In addition, on page 5.1 of the certificate, in the section entitled *Care and Services That Are Not Payable,* it states:

> We do not pay for the following care and services:
> * * *
> - Any services not listed in this Certificate as being payable.

The petitioner is covered under a benefit contract that provides very limited benefits for services performed outside a hospital setting. Infusion or intravenous (IV) treatment areamong those services not covered unless you are an inpatient or outpatient at a hospital; except for home infusion under very limited circumstances.

Home infusion therapy services are a covered benefit in the certificate under the section entitled *Coverage for Hospital, Facility and Alternative to Hospital Care*. There is no provision for this care when provided by and billed as part of a doctor's office visit. Based on this certificate language, the Commissioner concludes that medical care, including infusion therapy and injections provided in a doctor's office visit, are not covered benefits.

BCBSM's decision to deny coverage was based on its understanding that the Petitioner's medical care, infusion therapy, and injection on December 9, 2005, were provided in a doctor's office visit. The Petitioner says that the doctor's office where she received her infusion therapy is in the same building as the hospital. However, no information was provided either in the billing record or otherwise to show that her care was rendered as anything other than as part of a doctor's office visit.

Based on the above information, the Commissioner concludes that the Petitioner's medical care, infusion therapy, and injections on December 9, 2005, were provided as part of a doctor's office visit and therefore are not covered under the certificate.

V
ORDER

BCBSM's final adverse determination of February 22, 2008 is upheld. BCBSM is not required to pay for the Petitioner's care provided by Dr. XXXXX on December 9, 2005.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

Ken Ross
Commissioner